

MONTANA LEGISLATIVE HISTORY

Chapter 303 19 81

Bill H _____ S 334

Original bill & history ☒ C

H. Committee on Business & Industry

Hearing Date(s) Mar 11 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) Feb 12 ☒ C

Feb 19 ☒ C

_____ C

_____ C

Feb 19 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 311	1/28/81	2/09/81	2/11/81	2/11/81					
SB 312	1/28/81	2/09/81	2/11/81	2/11/81					
SB 315	1/29/81	2/16/81	tabled						
SB 316	1/29/81	2/05/81	2/05/81			2/05/81			
SB 319	1/29/81	2/05/81	2/05/81			2/05/81			
SB 323	1/29/81	pulled at request	of sponsor						
SB 329	1/30/81	2/16/81	2/19/81		2/19/81				
SB 334	1/30/81	2/17/81	2/19/81	2/19/81					
SB 335	1/30/81	2/14/81	2/19/81			2/19/81			
SB 336	1/30/81	2/14/81	2/14/81	2/14/81					
SB 341	1/30/81	2/14/81	2/14/81	2/14/81					
SB 342	1/31/81	2/10/81	2/11/81	2/11/81					
SB 364	2/04/81	2/17/81	2/18/81		2/18/81				
SB 369	2/05/81	2/13/81	2/18/81		2/18/81				
SB 381	2/06/81	2/17/81	2/19/81		2/19/81				
SB 400	2/07/81	2/14/81	2/14/81	2/14/81					

Use a separate sheet for Senate, House Bills, and Resolutions.

SENATE BILL NO. 334

INTRODUCED BY M. ANDERSON

BY REQUEST OF THE INSURANCE DEPARTMENT

IN THE SENATE

January 30, 1981	Introduced and referred to Committee on Judiciary.
February 19, 1981	Committee recommend bill do pass. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Motion pass consideration.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 49; Noes, 9. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Business and Industry.
March 12, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Motion pass consideration.
March 24, 1981	Second reading, concurred in.
March 26, 1981	Third reading, concurred in. Ayes, 93; Noes, 3.

IN THE SENATE

March 27, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Sen. Mike Anderson* BILL NO. 334
 2 INTRODUCED BY *Mike Anderson*
 3 BY REQUEST OF THE INSURANCE DEPARTMENT
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE INSURANCE LAWS OF THE STATE OF MONTANA; AMENDING
 7 SECTIONS 33-1-501, 33-2-109, 33-2-110, 33-2-116, 33-2-119,
 8 33-2-307, 33-2-705, 33-2-708, 33-2-709, 33-3-204, 33-3-205,
 9 33-3-432, 33-7-405, 33-7-509, 33-7-525, 33-7-526, 33-15-101,
 10 33-15-303, 33-18-210, 33-22-111, 33-22-205, 33-22-232,
 11 33-22-301, 33-22-812, 33-24-102, 33-24-103, 33-25-102, AND
 12 33-30-1001, MCA; AND REPEALING SECTIONS 33-3-501 AND
 13 33-7-527 THROUGH 33-7-530, MCA."
 14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 33-1-501, MCA, is amended to read:

17 "33-1-501. Filing and approval of forms. (1) No basic
 18 insurance policy or annuity contract form, application form
 19 ~~where-written-application-is-required-and-is-to-be-made-a~~
 20 ~~part-of-the-policy-or-contract~~, printed rider or endorsement
 21 form, or form of renewal certificate shall be delivered or
 22 issued for delivery in this state unless the form has been
 23 filed with and approved by the commissioner of this state
 24 and the state of domicile of the insurer, where so required.
 25 This provision shall not apply to surety bonds; specially

1 rated inland marine risks; or policies, riders,
 2 endorsements, or form of unique character designed for and
 3 used with relation to insurance upon a particular subject or
 4 which relate to the manner of distribution of benefits or to
 5 the reservation of rights and benefits under life or
 6 disability insurance policies and are used at the request of
 7 the individual policyholder, contract holder, or certificate
 8 holder. As to forms for use in property, marine (other than
 9 ocean marine and foreign trade coverages), casualty, and
 10 surety insurance coverages, the filing required by this
 11 subsection may be made by rating organizations on behalf of
 12 its members and subscribers, but this provision shall not be
 13 deemed to prohibit any such member or subscriber from filing
 14 any such forms on its own behalf.

15 (2) Every such filing shall be made not less than 30
 16 60 days in advance of any such delivery. ~~At-the-expiration~~
 17 ~~of-such-30-days-the-form-so-filed-shall-be-deemed--approved~~
 18 ~~unless--prior--thereto-it-has-been-affirmatively-approved-or~~
 19 ~~disapproved-by-order-of-the-commissioner.~~ Approval of any
 20 such form by the commissioner shall constitute a waiver of
 21 any unexpired portion of such waiting period. The
 22 commissioner may extend by not more than an additional 30 60
 23 days the period within which he may so affirmatively approve
 24 or disapprove any such form by giving notice of such
 25 extension before expiration of the initial 30-day 60-day

1 period. ~~At the expiration of any such period as so extended~~
 2 ~~and in the absence of such prior affirmative approval or~~
 3 ~~disapproval, any such form shall be deemed approved.~~ The
 4 commissioner may at any time, after notice and for cause
 5 shown, withdraw any such approval.

6 (3) Any order of the commissioner disapproving any
 7 such form or withdrawing a previous approval shall state the
 8 grounds therefor and the particulars thereof in such details
 9 as reasonably to inform the insurer thereof.

10 (4) The commissioner may, by order, exempt from the
 11 requirements of this section for so long as he deems proper
 12 any insurance document or form or type thereof as specified
 13 in such order to which, in his opinion, this section may not
 14 practicably be applied or the filing and approval of which
 15 are, in his opinion, not desirable or necessary for the
 16 protection of the public.

17 (5) This section shall apply also to any such form
 18 used by domestic insurers for delivery in a jurisdiction
 19 outside this state, if the insurance supervisory official of
 20 such jurisdiction informs the commissioner that such form is
 21 not subject to approval or disapproval by such official, and
 22 upon the commissioner's order requiring the form to be
 23 submitted to him for the purpose. The applicable same
 24 standards shall apply to such forms as apply to forms for
 25 domestic use.

1 (5) This section and 33-1-502 shall not apply as to:
 2 (a) reinsurance;
 3 (b) policies or contracts not issued for delivery in
 4 this state or delivered in this state, except as provided in
 5 subsection (5);

6 (c) ocean marine and foreign trade insurances."

7 Section 2. Section 33-2-109, MCA, is amended to read:

8 "33-2-109. Capital or surplus funds required. (1) To
 9 qualify for authority to transact any one kind of insurance,
 10 as defined in 33-1-205 through 33-1-212, or combinations of
 11 kinds of insurance as shown below, an insurer shall possess
 12 and thereafter maintain unimpaired paid-in capital stock (if
 13 a stock insurer) or surplus (if a foreign mutual or foreign
 14 reciprocal insurer) in amount not less than as applicable
 15 under the schedule below, and shall possess when first so
 16 authorized such additional funds as surplus as required
 17 under 33-2-110:

18 Kind or kinds	Minimum capital or
19 of insurance	surplus required
20 Life	\$200,000
21 Disability	200,000
22 Life and disability	300,000
23 Property	400,000
24 Marine	400,000
25 Casualty	

1 All lines except workers' compensation 400,000
 2 All lines, including workers' compensation .. 600,000
 3 Surety 500,000
 4 Title 200,000
 5 Multiple lines (two or more: property, marine,
 6 casualty, or surety) 800,000
 7 (2) As to surplus required for qualification to
 8 transact one or more kinds of insurance and thereafter to be
 9 maintained, domestic mutual insurers shall be governed by
 10 chapter 3, and domestic reciprocal insurers shall be
 11 governed by chapter 5.
 12 (3) Capital and surplus requirements shall be based
 13 upon all the kinds of insurance actually transacted or to be
 14 transacted by the insurer in any and all areas in which it
 15 operates, whether or not only a portion of such kinds are to
 16 be transacted in this state.
 17 (4) A life insurer may also grant annuities without
 18 additional capital or additional surplus."
 19 Section 3. Section 33-2-110, MCA, is amended to read:
 20 "33-2-110. Special surplus required. In addition to
 21 the minimum paid-in capital stock (stock insurers) or
 22 minimum surplus (mutual and reciprocal insurers) required by
 23 33-2-109, special surplus shall be possessed by insurers as
 24 follows:
 25 (1) All stock insurers and foreign mutual and foreign

1 reciprocal insurers which have actively transacted insurance
 2 in their state of domicile as an authorized insurer for less
 3 than 5 years or, if an alien insurer, have transacted
 4 insurance as an authorized insurer in at least one state of
 5 the United States for less than 5 years when first
 6 authorized to transact insurance in this state shall have a
 7 surplus or additional surplus equal to not less than 100% of
 8 the paid-in capital stock (if a stock insurer) or surplus
 9 (if a foreign mutual or foreign reciprocal) otherwise
 10 required under 33-2-109 for the kinds of insurance to be
 11 transacted.
 12 (2) Insurers that have actively transacted insurance
 13 as authorized insurers in one or more states of the United
 14 States for more than 5 years shall possess, when first
 15 authorized in this state, surplus or additional surplus
 16 equal to not less than 50% of the paid-in capital stock (if
 17 a stock insurer) or surplus (if a foreign mutual or foreign
 18 reciprocal insurer) otherwise required under 33-2-109.
 19 (3) Insurers authorized to transact multiple lines of
 20 insurance in this state shall at all times have and maintain
 21 surplus of not less than \$100,000, in addition to the
 22 capital (if a stock insurer) or surplus (if a foreign mutual
 23 or foreign reciprocal insurer) required by 33-2-109. The
 24 amount of such surplus shall be included within the surplus
 25 required of newly authorized insurers pursuant to

1 subsections (1) and (2) of this section."

2 Section 4. Section 33-2-116, MCA, is amended to read:

3 "33-2-116. Issuance or refusal of certificate of
4 authority -- state ownership of certificate. (1) If upon
5 completion of its application the commissioner finds that
6 the insurer has met the requirements for and is entitled
7 thereto under this code, he shall issue to the insurer a
8 proper certificate of authority. If he does not so find, the
9 commissioner shall issue his order refusing such
10 certificate. The commissioner shall act upon an application
11 for a certificate of authority within 90 ~~180~~ days after its
12 completion.

13 (2) The certificate, if issued, shall specify the kind
14 or kinds of insurance the insurer is authorized to transact
15 in Montana. At the insurer's request, the commissioner may
16 issue a certificate of authority limited to particular types
17 of insurance or insurance coverages within the scope of a
18 kind of insurance as defined in 33-1-205 through 33-1-212.

19 (3) Although issued to the insurer, the certificate of
20 authority is at all times the property of the state of
21 Montana. Upon any expiration, suspension, or termination
22 thereof, the insurer shall promptly deliver the certificate
23 of authority to the commissioner."

24 Section 5. Section 33-2-119, MCA, is amended to read:

25 "33-2-119. Suspension or revocation for violations and

1 special grounds. (1) The commissioner may, in his
2 discretion, suspend or revoke an insurer's certificate of
3 authority if, after a hearing thereon, he finds that the
4 insurer has violated any lawful order of the commissioner or
5 any provision of this code other than those for which
6 suspension or revocation is mandatory.

7 (2) The commissioner shall, after a hearing thereon,
8 suspend or revoke an insurer's certificate of authority if
9 he finds that the insurer:

10 (a) is in unsound condition or in such condition or
11 using such methods or practices in the conduct of its
12 business as to render its further transaction of insurance
13 in Montana injurious or hazardous to its policyholders or to
14 the public;

15 (b) has refused to be examined or to produce its
16 accounts, records, and files for examination or if any of
17 its officers have refused to give information with respect
18 to its affairs, when required by the commissioner;

19 (c) has failed to pay any final judgment rendered
20 against it in Montana within 30 days after the judgment
21 became final;

22 (d) with such frequency as to indicate its general
23 business practice in Montana, has without just cause refused
24 to pay proper claims arising under its policies, whether any
25 such claim is in favor of an insured or is in favor of a

1 third person with respect to the liability of an insured to
2 such third person, or without just cause compels such
3 insured or claimant to accept less than the amount due them
4 or to employ attorneys or to bring suit against the insurer
5 or such an insured to secure full payment or settlement of
6 such claims;

7 (e) is affiliated with and under the same general
8 management or interlocking directorate or ownership as
9 another insurer which transacts direct insurance in Montana
10 without having a certificate of authority therefor, except
11 as permitted as to a surplus line insurer under part 3 of
12 this chapter;

13 (f) has reinsured all its risks in their entirety in
14 another insurer.

15 (3) The commissioner may, in his discretion and
16 without advance notice or a hearing thereon, immediately
17 suspend the certificate of authority of any insurer as to
18 which proceedings for receivership, conservatorship,
19 rehabilitation, or other delinquency proceedings have been
20 commenced in any state."

21 Section 6. Section 33-2-307, MCA, is amended to read:

22 "33-2-307. Surplus lines in solvent insurers. A
23 surplus line agent shall not knowingly place surplus line
24 insurance with insurers unsound financially. The agent shall
25 ascertain the financial condition of the unauthorized

1 insurer before placing insurance therewith. The agent shall
2 so insure only either:

3 (1) with an insurer which is an authorized insurer in
4 at least one state of the United States for the kind of
5 insurance involved and which ~~if a stock insurer has~~
6 ~~capital stock and surplus of at least \$350,000 or if any~~
7 ~~other type of insurer has surplus of at least \$350,000~~
8 ~~meets the requirements of 33-2-109 and 33-2-110, as~~
9 ~~applicable;~~ or

10 (2) with an alien insurer, other than one qualified
11 under (1) above, which has an established and effective
12 trust fund of at least ~~\$400,000~~ \$1,000,000 within the United
13 States administered by a recognized financial institution
14 and held for the benefit of all its policyholders in the
15 United States or policyholders and creditors in the United
16 States."

17 Section 7. Section 33-2-705, MCA, is amended to read:

18 "33-2-705. Report on premiums and other consideration
19 -- tax. (1) Each authorized insurer and each formerly
20 authorized insurer with respect to premiums so received
21 while an authorized insurer in this state shall file with
22 the commissioner, on or before March 1 each year, a report
23 (except as to wet marine and transportation insurance taxed
24 under subsection (3) below) in form as prescribed by the
25 commissioner showing total direct premium income, including

1 policy, membership, and other fees, premiums paid by
 2 application of dividends, refunds, savings, savings coupons,
 3 and similar returns or credits to payment of premiums for
 4 new or additional or extended or renewed insurance, charges
 5 for payment of premium in installments, and all other
 6 consideration for insurance from all kinds and classes of
 7 insurance whether designated as a premium or otherwise,
 8 received by it during the preceding calendar year on account
 9 of policies covering property, subjects, or risks located,
 10 resident, or to be performed in Montana, with proper
 11 proportionate allocation of premium as to such property,
 12 subjects, or risks in Montana insured under policies or
 13 contracts covering property, subjects, or risks located or
 14 resident in more than one state, after deducting from such
 15 total direct premium income applicable cancellations,
 16 returned premiums, the unabsorbed portion of any deposit
 17 premium, the amount of reduction in or refund of premiums
 18 allowed to industrial life policyholders for payment of
 19 premiums direct to an office of the insurer, all policy
 20 dividends, refunds, savings, savings coupons, and other
 21 similar returns paid or credited to policyholders with
 22 respect to such policies. As to title insurance, "premium"
 23 includes ~~only the risk-portion-of-the~~ total charge for such
 24 insurance. No deduction shall be made of the cash surrender
 25 values of policies. Considerations received on annuity

1 contracts shall not be included in total direct premium
 2 income and shall not be subject to tax.

3 (2) Coincident with the filing of the tax report
 4 referred to in subsection (1) above, each such insurer shall
 5 pay to the commissioner a tax upon such net premiums. This
 6 tax may be computed in either of the following ways:

7 (a) (i) A domestic insurer may choose to compute its
 8 tax based on the percentage of its admitted assets invested
 9 in Montana securities according to the following schedule:

10 (A) 2 3/4% of net premiums if the insurer has 0% of
 11 its admitted assets invested in Montana securities;

12 (B) 2 1/4% of net premiums if the insurer has at least
 13 25% of its admitted assets invested in Montana securities;

14 (C) 1 3/4% of net premiums if the insurer has at least
 15 50% of its admitted assets invested in Montana securities;

16 (D) 1 1/4% of net premiums if the insurer has at least
 17 75% of its admitted assets invested in Montana securities;

18 and

19 (E) 3/4% of net premiums if the insurer has 100% of
 20 its admitted assets invested in Montana securities.

21 (ii) "Admitted assets" are those assets allowed in
 22 33-2-501.

23 (iii) An insurer choosing this method of computation
 24 must itemize its Montana securities on a detailed schedule
 25 attached to its annual tax report.

(b) (i) If the method provided for in subsection (a) is not used, the insurer shall compute its tax at the rate of $2\frac{3}{4}\%$ of the net premiums.

(ii) An insurer choosing this method and having not less than 50% of its paid-in capital stock invested in Montana securities is allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section.

(3) For the purpose of subsection (2):

(a) "paid-in capital stock" as to a mutual or reciprocal insurer shall be deemed to be an amount equal to 10% of the insurer's assets; and

(b) "Montana securities" shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

(4) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in 33-1-209, written in this state

during the calendar year next preceding and shall at the same time pay to the commissioner a tax of $\frac{3}{4}$ of 1% of such gross underwriting profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited, or paid as participation dividends or savings by such insurers to the holders of such contracts.

(5) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

1 (6) With respect to authorized insurers the premium
 2 tax provided by this section shall be payment in full and in
 3 lieu of all other demands for any and all state, county,
 4 city, district, municipal, and school taxes, licenses, fees,
 5 and excises of whatever kind or character, excepting only
 6 those prescribed by this code, taxes on real and tangible
 7 personal property located in this state, and taxes payable
 8 under 50-3-109.

9 (7) The commissioner may suspend or revoke the
 10 certificate of authority of any insurer which fails to pay
 11 its taxes as required under this section."

12 Section 8. Section 33-2-708, MCA, is amended to read:
 13 33-2-708. Fees and licenses. (1) The commissioner
 14 shall collect in advance and the persons so served shall so
 15 pay to the commissioner the following fees and licenses:

16 (a) certificates of authority:

17 (i) for filing applications for original certificates
 18 of authority, articles of incorporation (except original
 19 articles of incorporation of domestic insurers as provided
 20 in subsection (b) below) and other charter documents,
 21 bylaws, financial statement, examination report, power of
 22 attorney to the commissioner, and all other documents and
 23 filings required in connection with such application and for
 24 issuance of an original certificate of authority, if issued:

25 (A) domestic insurers \$ 30.00

1 (B) foreign insurers 300.00

2 (ii) annual continuation of certificate of authority ..
 3 300.00

4 (iii) reinstatement of certificate of authority 25.00

5 (b) articles of incorporation:

6 (i) filing original articles of incorporation of
 7 domestic insurer, exclusive of fees required to be paid by
 8 the corporation to the secretary of state 20.00

9 (ii) filing amendment of articles of incorporation,
 10 domestic and foreign insurers, exclusive of fees required to
 11 be paid to the secretary of state by a domestic corporation
 12 10.00

13 (c) filing bylaws or amendment thereto where required
 14 5.00

15 (d) filing annual statement of insurer, other than as
 16 part of application for original certificate of authority ..
 17 25.00

18 (e) resident agent's license:

19 (i) application for original license, including
 20 issuance of license, if issued (life and/or disability)
 21 10.00

22 (ii) application for original license, including
 23 issuance of license, if issued (other than life and/or
 24 disability) 10.00

25 (iii) appointment of agent, each insurer • 5~~00~~ 10.00

1 (iv) annual renewal, each insurer 5.00 10.00
 2 (v) temporary license 10.00
 3 ~~(vi) amendment of license (excluding additions thereto)~~
 4 ~~or reissuance of master license 10.00~~
 5 (f) nonresident agent's license:
 6 (i) application for original license, including
 7 issuance of license, if issued (life and/or disability)
 8 100.00
 9 (ii) application for original license, including
 10 issuance of license, if issued (other than life and/or
 11 disability) 100.00
 12 (iii) appointment of agent, each insurer . 5.00 10.00
 13 (iv) annual renewal, each insurer 5.00 10.00
 14 ~~(v) amendment of license (excluding additions thereto)~~
 15 ~~or reissuance of master license 10.00~~
 16 (g) solicitor's license:
 17 (i) application for original license, including
 18 issuance of license, if issued 5.00
 19 (ii) annual renewal of license 5.00
 20 (h) examination for license as agent or solicitor,
 21 each examination 10.00
 22 (i) surplus line agent's license:
 23 (i) application for original license and for issuance
 24 of license, if issued 25.00
 25 (ii) annual renewal of license 25.00

1 (j) adjuster's license:
 2 (i) application for original license and for issuance
 3 of license, if issued 10.00
 4 (ii) annual renewal of license 10.00
 5 (k) insurance vending machine license, each machine,
 6 each year 10.00
 7 (l) commissioner's certificate under seal (except when
 8 on certificates of authority or licenses) 3.00
 9 (m) copies of documents on file in the commissioner's
 10 office, per page50
 11 (n) policy forms:
 12 (i) filing each policy form 25.00
 13 (ii) filing each application, rider, endorsement,
 14 amendment, insert page, schedule of rates, and clarification
 15 of risks 10.00
 16 (iii) maximum charge if policy and all forms submitted
 17 at one time or resubmitted for approval within 180 days
 18 50.00
 19 (2) The commissioner shall promptly deposit with the
 20 state treasurer to the credit of the general fund of this
 21 state all fees and licenses received by him under this
 22 section.
 23 ~~(3) All fees are considered fully earned when~~
 24 ~~received. In the event of overpayment, only those amounts in~~
 25 ~~excess of \$10 will be refunded."~~

SB 334

Section 9. Section 33-2-709, MCA, is amended to read:

"33-2-709. Retaliatory fees, taxes, and other obligations. (1) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Montana insurers or upon the agents or representatives of such insurers which are in excess of such taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers or upon the agents or representatives of such insurers of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers or upon the agents or representatives of such insurers of such other state or country doing business or seeking to do business in Montana. Any tax, license, or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on

Montana insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

(2) This section shall not apply as to any fees in conjunction with the licensing of insurance agents, personal income taxes, ad valorem taxes on real or personal property, or special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions from premium taxes or other taxes otherwise payable allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

(3) (a) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within 6 months after January 1, 1961, whichever date is the later, and may be any one of the following states:

(i) that in which the insurer was first authorized to transact insurance;

(ii) that in which is located the insurer's principal place of business in the United States;

(iii) that in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States.

(b) If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States."

Section 10. Section 33-3-204, MCA, is amended to read:

"33-3-204. Initial qualifications -- domestic mutuals.

(1) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (2) of this section as are permitted under 33-2-108.

(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by stock insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective or in lieu of such applications, premiums, and surplus, may deposit surplus at in accordance with that part of the

following schedule which applies to the one kind of insurance the insurer proposes to transact: unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance as in 33-2-109, subject further to the additional special surplus requirements of 33-2-110 applicable to such stock insurer. The minimum amount of surplus must thereafter be maintained unimpaired and placed on deposit with the commissioner. The deposit is subject to the provisions of chapter 2, part 6, of this title and 33-2-111.

REFER TO CODE FOR HAND SET TABLE

WHICH IS ALL STRICKEN

The following provisos are respectively applicable to the foregoing schedule and provisions as indicated by like Roman numerals appearing in such schedules:

(i) No group insurance or term policies for terms of less than 10 years shall be included.

(ii) No group, blanket, or family plans of insurance shall be included in lieu of weekly indemnity or a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed \$25,500.

(iii) Only insurance of the owner's interest in real property may be included.

~~{iv}-Must-include--insurance--of--legal--liability--for
bodily--injury--and--property--damage--to--which--the--maximum--and
minimum--insured--amounts--apply--~~

~~{v}--The--maximums--provided--for--in--this--column--{f}--are
net--of--applicable--reinsurances--~~

~~{vi}-The--deposit--of--surplus--in--the--amount--specified--in
columns--{g}--and--{h}--must--thereafter--be--maintained
unimpaired--The--deposit--is--subject--to--the--provisions--of
chapter--27--part--67--of--this--title--"~~

Section 11. Section 33-3-205, MCA, is amended to read:

"33-3-205. Formation of mutual insurer -- bond. (1)
Before soliciting any applications for insurance required
under 33-3-204 as qualification to raise surplus funds to
qualify for the original certificate of authority, the
incorporators of the proposed insurer shall file with the
commissioner a corporate surety bond in the penalty of
~~\$15,000~~ \$50,000, in favor of the state and for the use and
benefit of the state and of applicant members and creditors
of the corporation. The bond shall be conditioned as
follows:

(a) for the prompt return to applicant members of all
premiums collected in advance;

(b) for payment of all indebtedness of the
corporation; and

(c) for payment of costs incurred by the state in

event of any legal proceedings for liquidation or
dissolution of the corporation, all in the event the
corporation fails to complete its organization and secure a
certificate of authority within 1 year after the date of its
certificate of incorporation.

(2) In lieu of such bond, the incorporators may
deposit with the commissioner ~~\$15,000~~ \$50,000 in cash or
United States government bonds, negotiable and payable to
the bearer, with a market value at all times of not less
than ~~\$15,000~~ \$50,000, to be held in trust upon the same
conditions as required for the bond.

(3) Any such bond filed or deposit or remaining
portion thereof held under this section shall be released
and discharged upon settlement and termination of all
liabilities against it."

Section 12. Section 33-3-432, MCA, is amended to read:

"33-3-432. Impairment of capital or assets. (1) If a
stock insurer's capital, as represented by the aggregate par
value of its outstanding capital stock, becomes impaired or
the assets of a mutual insurer are less than its liabilities
and the minimum amount of surplus required to be maintained
by it under 33-3-204 or 33-3-501 for authority to transact
the kinds of insurance being transacted, the commissioner
shall at once determine the amount of deficiency and serve
notice upon the insurer to make good the deficiency within

1 60 days after service of such notice.

2 (2) The deficiency may be made good in cash or in
3 assets eligible under chapter 2, part 8, for the investment
4 of the insurer's funds; If a stock insurer, by reduction of
5 the insurer's capital to an amount not below the minimum
6 required for the kinds of insurance thereafter to be
7 transacted; or if a mutual insurer, by amendment of its
8 certificate of authority to cover only such kind or kinds of
9 insurance thereafter for which the insurer has sufficient
10 surplus under this code.

11 (3) If the deficiency is not made good and proof
12 thereof filed with the commissioner within such 60-day
13 period, the insurer shall be deemed insolvent and the
14 commissioner shall institute delinquency proceedings against
15 it under chapter 2, part 9; except that if such deficiency
16 exists because of increased loss reserves required by the
17 commissioner or because of disallowance by the commissioner
18 of certain assets or reduction of the value at which carried
19 in the insurer's accounts, the commissioner may, in his
20 discretion and upon application and good cause shown, extend
21 for not more than an additional 60 days the period within
22 which such deficiency may be so made good and such proof
23 thereof so filed."

24 Section 13. Section 33-7-405, MCA, is amended to read:

25 "33-7-405. Reserve valuation. (1) As a part of the

1 annual statement required under 33-7-404, each society
2 shall, on or before March 1, file with the commissioner a
3 valuation of its certificates in force on December 31 last
4 preceding, provided, the commissioner may, in his discretion
5 for cause shown, extend the time for filing such valuation
6 for not more than 2 calendar months.

7 (2) Such report of valuation shall show, as reserve
8 liabilities, the difference between the present midyear
9 value of the promised benefits provided in the certificates
10 of such society in force and the present midyear value of
11 the future net premiums as the same are in practice actually
12 collected, not including therein any value for the right to
13 make extra assessments and not including any amount by which
14 the present midyear value of future net premiums exceeds the
15 present midyear value of promised benefits on individual
16 certificates. At the option of any society, in lieu of the
17 above, the valuation may show the net tabular value. Such
18 net tabular value as to certificates issued prior to January
19 1, 1962, shall be determined in accordance with the
20 provisions of law applicable prior to January 1, 1961, and
21 as to certificates issued on or after January 1, 1962, shall
22 not be less than the reserves determined according to the
23 commissioner's reserve valuation method as hereinafter
24 defined. If the premium charged is less than the tabular net
25 premium according to the basis of valuation used, an

1 additional reserve equal to the present value of the
2 deficiency in such premiums shall be set up and maintained
3 as a liability. The reserve liabilities shall be properly
4 adjusted in the event that the midyear or tabular values are
5 not appropriate.

6 (3) Reserves according to the commissioners' reserve
7 valuation method for the life insurance and endowment
8 benefits of certificates providing for a uniform amount of
9 insurance and requiring the payment of uniform premiums
10 shall be the excess, if any, of the present value, at the
11 date of valuation, of such future guaranteed benefits
12 provided for by such certificates over the then present
13 value of any future modified net premiums therefor. The
14 modified net premiums for any such certificate shall be such
15 uniform percentage of the respective contract premiums for
16 such benefits that the present value, at the date of issue
17 of the certificate, of all such modified net premiums shall
18 be equal to the sum of the then present value of such
19 benefits provided for by the certificate and the excess of
20 (a) over (b), as follows:

21 (a) a net level premium equal to the present value, at
22 the date of issue, of such benefits provided for after the
23 first certificate year, divided by the present value, at the
24 date of issue, of an annuity of one per annum payable on the
25 first and each subsequent anniversary of such certificate on

1 which a premium falls due; provided, however, that such net
2 level annual premium shall not exceed the net level annual
3 premium on the 19-year premium whole life plan for insurance
4 of the same amount at an age 1 year higher than the age at
5 issue of such certificate; and

6 (b) a net 1-year term premium for such benefits
7 provided for in the first certificate year.

8 (4) Reserves according to the commissioners' reserve
9 valuation method for life insurance benefits for varying
10 amounts of benefits or requiring the payment of varying
11 premiums, annuity and pure endowment benefits, disability
12 and accidental death benefits in all certificates and
13 contracts, and all other benefits except life insurance and
14 endowment benefits shall be calculated by a method
15 consistent with the principles of subsection (3) above.

16 (5) The present value of deferred payments due under
17 incurred claims or matured certificates shall be deemed a
18 liability of the society and shall be computed upon
19 mortality and interest standards prescribed in subsections
20 (7) and (8) below.

21 (6) Such valuation and underlying data shall be
22 certified by a competent actuary or, at the expense of the
23 society, verified by the actuary of the department of
24 insurance of the state of domicile of the society.

25 (7) The minimum standards of valuation for

1 certificates issued prior to January 1, 1962, shall be those
2 provided by the law applicable immediately prior to January
3 1, 1961, but not lower than the standards used in the
4 calculating of rates for such certificates.

5 (8) The minimum standard of valuation for certificates
6 issued after January 1, 1962, shall be 3 1/2% interest and
7 the following tables ~~(except that a society may value its~~
8 ~~certificates in accordance with valuation standards~~
9 ~~authorized by the laws of this state for the valuation of~~
10 ~~policies issued by life insurance companies):~~

11 (a) for certificates of life insurance, American men
12 ultimate table of mortality, with Bowerman's or Davis'
13 extension thereof; or with the consent of the commissioner,
14 the commissioner's 1941 standard ordinary mortality table or
15 the commissioner's 1941 standard industrial table of
16 mortality;

17 (b) for annuity certificates, including life annuities
18 provided or available under optional modes of settlement in
19 such certificates, the 1937 standard annuity table;

20 (c) for disability benefits issued in connection with
21 life benefit certificates, Hunter's disability table, which,
22 for active lives, shall be combined with a mortality table
23 permitted for calculating the reserves on life insurance
24 certificates, except that the table known as class III
25 disability table (1926) modified to conform to the

1 contractual waiting period shall be used in computing
2 reserves for disability benefits under a contract which
3 presumes that total disability shall be considered to be
4 permanent after a specified period;

5 (d) for accidental death benefits issued in connection
6 with life benefit certificates, the intercompany double
7 indemnity mortality table combined with a mortality table
8 permitted for calculating the reserves for life insurance
9 certificates; and

10 (e) for noncancelable accident and health benefits,
11 the class III disability table (1926) with conference
12 modifications or, with the consent of the commissioner,
13 tables based upon the society's own experience.

14 (9) The commissioner may, in his discretion, accept
15 other standards for valuation if he finds that the reserves
16 produced thereby will not be less in the aggregate than
17 reserves computed in accordance with the minimum valuation
18 standard herein prescribed. The commissioner may, in his
19 discretion, vary the standards of mortality applicable to
20 all certificates of insurance on substandard lives or other
21 extrahazardous lives by any society authorized to do
22 business in this state. Whenever the mortality experience
23 under all certificates valued on the same mortality table is
24 in excess of the expected mortality according to such table
25 for a period of 3 consecutive years, the commissioner may

1 require additional reserves when deemed necessary in his
2 judgment on account of such certificates.

3 (10) Any society, with the consent of the insurance
4 supervisory official of the state of domicile of the society
5 and under such conditions, if any, which he may impose, may
6 establish and maintain reserves on its certificates in
7 excess of the reserves required hereunder, but the
8 contractual rights of any insured member shall not be
9 affected thereby."

10 Section 14. Section 33-7-509, MCA, is amended to read:

11 "33-7-509. Nonforfeiture benefits, cash surrender
12 values, certificate loans, and other options -- value --
13 term. (1) A society may grant paid-up nonforfeiture
14 benefits, cash surrender values, certificate loans, and such
15 other options as its laws may permit. As to certificates
16 issued on and after January 1, 1961, a society shall grant
17 at least one paid-up nonforfeiture benefit, except in the
18 case of pure endowment, annuity or reversionary annuity
19 contracts, reducing term insurance contracts, or contracts
20 of term insurance of uniform amount of 15 years or less
21 expiring before age 66.

22 (2) In the case of certificates other than those for
23 which reserves are computed on the commissioner's 1941
24 standard ordinary mortality table, or the 1941 standard
25 industrial table, or any more recent table made applicable

1 to life insurance companies, the value of every paid-up
2 nonforfeiture benefit and the amount of any cash surrender
3 value, loan, or other option granted shall not be less than
4 the excess, if any, of (a) over (b) as follows:

5 (a) the reserve under the certificate determined on
6 the basis specified in the certificates; and

7 (b) the sum of any indebtedness to the society on the
8 certificate, including interest due and accrued, and a
9 surrendered charge equal to 2 1/2% of the face amount of the
10 certificate, which, in the case of insurance on the lives of
11 children, shall be the ultimate face amount of the
12 certificate, if death benefits provided therein are graded.

13 (3) However, in the case of certificates issued on a
14 substandard basis or in the case of certificates, the
15 reserves for which are computed upon the American men
16 ultimate table of mortality, the term of any extended
17 insurance benefit granted including accompanying pure
18 endowment, if any, may be computed upon the rates of
19 mortality not greater than 130% of those shown by the
20 mortality table specified in the certificate for the
21 computation of the reserve.

22 (4) In the case of certificates for which reserves are
23 computed on the commissioner's 1941 standard ordinary
24 mortality table, or the 1941 standard industrial table, or
25 any more recent table made applicable to life insurance

1 ~~companies;~~ every paid-up nonforfeiture benefit and the
 2 amount of any cash surrender value, loan, or other option
 3 granted shall not be less than the corresponding amount
 4 ascertained in accordance with the provisions of the laws of
 5 this state applicable to life insurers issuing policies
 6 containing like insurance benefits based upon such tables."

7 Section 15. Section 33-7-525, MCA, is amended to read:

8 "33-7-525. Agent defined. The term "insurance agent"
 9 as used in this chapter means any authorized or acknowledged
 10 agent of a society who acts as such in the solicitation,
 11 negotiation, or procurement or making of a life insurance,
 12 accident and health insurance, or annuity contract. The term
 13 "insurance agent" ~~shall~~ does not include:

14 (1) any regular salaried officer or employee of a
 15 licensed society who devotes substantially all of his
 16 services to activities other than the solicitation of
 17 fraternal insurance contracts from the public and who
 18 receives for the solicitation of such contracts no
 19 commission or other compensation directly dependent upon the
 20 amount of business obtained; ~~or~~

21 (2) ~~any agent or representative of a society who~~
 22 ~~devotes or intends to devote less than 50% of his time to~~
 23 ~~the solicitation and procurement of insurance contracts for~~
 24 ~~such societies. Any person who in the preceding calendar year~~
 25 ~~has solicited and procured life insurance contracts on~~

1 ~~behalf of any society in an amount of insurance in excess of~~
 2 ~~\$50,000 or, in the case of any other kind or kinds of~~
 3 ~~insurance which the society might write on the persons of~~
 4 ~~more than 25 individuals and who has received or will~~
 5 ~~receive a commission or other compensation therefor shall be~~
 6 ~~presumed to be devoting or intending to devote 50% of his~~
 7 ~~time to the solicitation or procurement of insurance~~
 8 ~~contracts for such societies."~~

9 Section 16. Section 33-7-526, MCA, is amended to read:

10 "33-7-526. Agent license required -- penalty. (1)
 11 Agents of societies shall be ~~licensed in accordance with the~~
 12 ~~provisions of 33-7-525 through 33-7-528~~ considered to be
 13 insurance agents and subject to the same licensing
 14 requirements as insurance agents under chapter 17 of this
 15 code, except that no examination is required of an
 16 individual lawfully licensed in this state as an agent for a
 17 fraternal benefit society as to the kind of insurance to be
 18 transacted as of or immediately prior to [the effective date
 19 of this act] and thereafter continuing to be so licensed.

20 (2) No society doing business in this state shall pay
 21 any commission or other compensation to any person for any
 22 services in obtaining in this state any new contract of
 23 life, accident, or health insurance or any new annuity
 24 contract, except to a licensed insurance agent of such
 25 society and except an agent exempted under 33-7-525.

1 (3) Any person who in this state acts as insurance
 2 agent for a society without having authority so to do by
 3 virtue of a license issued and in force pursuant to the
 4 provisions of this chapter shall ~~be guilty of a misdemeanor.~~
 5 ~~33-7-525~~ be guilty of a misdemeanor."

6 Section 17. Section 33-15-101, MCA, is amended to
 7 read:

8 "33-15-101. Scope. This chapter shall not apply as to:

9 (1) reinsurance;

10 (2) policies or contracts not issued for delivery in
 11 this state or delivered in this state;

12 (3) ocean marine and foreign trade insurances;

13 (4) title insurance, except as to the following
 14 provisions: ~~33-15-102, 33-15-103, 33-15-303, 33-15-305,~~
 15 ~~33-15-306, and 33-15-307, 33-15-316, and 33-15-411."~~

16 Section 18. Section 33-15-303, MCA, is amended to
 17 read:

18 "33-15-303. Contents of policies in general --
 19 identification. (1) Every policy shall specify:

20 (a) the names of the parties to the contract;

21 (b) the subject of the insurance;

22 (c) the risks insured against;

23 (d) the time when the insurance thereunder takes
 24 effect and the period during which the insurance is to
 25 continue;

1 (e) the premium;

2 (f) the conditions pertaining to the insurance.

3 (2) If under the policy the exact amount of premium is
 4 determinable only at stated intervals or termination of the
 5 contract, a statement of the basis and rates upon which the
 6 premium is to be determined and paid shall be included.

7 (3) Subsections (1) and (2) of this section shall not
 8 apply as to surety contracts or to group insurance policies.

9 (4) All policies and annuity contracts issued by
 10 domestic insurers and the forms thereof filed with the
 11 commissioner shall have printed thereon an appropriate
 12 designating letter or figure or combination of letters or
 13 figures or terms identifying the respective forms of
 14 policies or contracts, together with the year of adoption of
 15 such form. Whenever any change is made in any such form, the
 16 designating letters, figures, or terms and year of adoption
 17 thereon shall be correspondingly changed."

18 Section 19. Section 33-18-210, MCA, is amended to
 19 read:

20 "33-18-210. Unfair discrimination and rebates
 21 prohibited -- property, casualty, and surety insurances. (1)
 22 No title, property, casualty, or surety insurer or any
 23 employee, representative, agent, or solicitor thereof may,
 24 as an inducement to purchase insurance or after insurance
 25 has been effected, pay, allow, or give or offer to pay,

allow, or give, directly or indirectly, any rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy; any special favor or advantage in the dividends or other benefits to accrue thereon; or any valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) No insured named in a policy or any employee of the insured may knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit, or reduction of premium; special favor or advantage; or valuable consideration or inducement.

(3) No such insurer may make or permit any unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) Nothing in this section may be construed as prohibiting the payment of commissions or other compensation to duly licensed agents or solicitors or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating

policyholders, members, or subscribers.

~~(5) No such insurer may make or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:~~

~~(a) the refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or~~

~~(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.~~

~~(6) No such insurer may make or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:~~

~~(a) the refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or~~

~~(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.~~

~~(7) No such insurer may refuse to insure, refuse to~~

~~continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual, but an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.~~

~~(2) No such insurer may terminate or modify coverage or refuse to issue or refuse to renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; however, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection is not to be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract."~~

Section 20. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual, group, and blanket policies and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, osteopath, chiropractor, optometrist, chiropodist, or dentist

psychologist for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist.

(2) Nothing in this section shall be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1); nor shall this section be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 21. Section 33-22-205, MCA, is amended to read:

"33-22-205. Time limit on certain defenses. (1) There shall be a provision as follows:

"Time Limit on Certain Defenses: (1) After 3 2 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such 3-year 2-year period.

(2) No claim for loss incurred or disability (as defined in the policy) commencing after 3 2 years from the date of issue of this policy shall be reduced or denied on

1 the ground that a disease or physical condition not excluded
2 from coverage by name or specific description effective on
3 the date of loss had existed prior to the effective date of
4 coverage of this policy."

5 (2) Policy provision (1) of subsection (1) shall not
6 be so construed as to affect any legal requirement for
7 avoidance of a policy or denial of a claim during such
8 initial ~~3-year~~ ~~2-year~~ period or to limit the application of
9 33-22-222 through 33-22-226 in the event of misstatement
10 with respect to age or occupation or other insurance.

11 (3) A policy which the insured has the right to
12 continue in force subject to its terms by the timely payment
13 of premium until at least age 50 or, in the case of a policy
14 issued after age 44, for at least 5 years from its date of
15 issue, may contain in lieu of policy provision (1) of
16 subsection (1) the following provision (from which the
17 clause in parentheses may be omitted at the insurer's
18 option) under the caption "Incontestable":

19 "After this policy has been in force for a period of 3
20 2 years during the lifetime of the insured (excluding any
21 period during which the insured is disabled), it shall
22 become incontestable as to the statements contained in the
23 application.""

24 Section 22. Section 33-22-232, MCA, is amended to
25 read:

1 "33-22-232. Renewal at option of insurer. Disability
2 insurance policies, other than accident insurance only
3 policies, in which the insurer reserves the right to refuse
4 renewal ~~on-an-individual-basis~~ shall provide in substance in
5 a provision thereof or in an endorsement thereon or rider
6 attached thereto that subject to the right to terminate the
7 policy upon nonpayment of premium when due, such right to
8 refuse renewal may not be exercised so as to take effect
9 before the renewal date occurring on or after and nearest
10 each policy anniversary (or in the case of lapse and
11 reinstatement, at the renewal date occurring on or after and
12 nearest each anniversary of the last reinstatement), and
13 that any refusal of renewal shall be without prejudice to
14 any claim originating while the policy is in force. The
15 parenthetical reference to lapse and reinstatement may be
16 omitted at the insurer's option."

17 Section 23. Section 33-22-301, MCA, is amended to
18 read:

19 "33-22-301. Coverage of newborn under family policy.
20 (1) Each policy of disability insurance or certificate
21 issued thereunder ~~which-in-addition-to-covering-the--insured~~
22 ~~also--covers-members-of-the-insured's-family~~ shall contain a
23 provision granting immediate accident and sickness coverage,
24 from and after the moment of birth, to each newborn infant
25 of any insured.

(2) The coverage for newborn infants shall be the same as provided by the policy for the other covered persons; provided, however, that for newborn infants there shall be no waiting or elimination periods. A deductible or reduction in benefits applicable to the coverage for newborn infants is not permissible unless it conforms and is consistent with the deductible or reduction in benefits applicable to all other covered persons.

(3) No policy or certificate of insurance ~~which in addition to covering the insured also covers members of the insured's family~~ may be issued or amended in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of newborn infants of an insured from and after the moment of birth.

(4) If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period."

Section 24. Section 33-22-812, MCA, is amended to read:

"33-22-812. Policy forms to be approved -- procedure -- disapproval. (1) The forms of the policies, applications, certificates or other evidence of insurance coverage, and applicable premium rates relating thereto shall be filed with the commissioner. No such policy, contract, certificate or other evidence of insurance, application, or other form shall be sold, issued, or used and no endorsement shall be attached to or printed or stamped thereon unless the form thereof shall have been approved by the commissioner ~~or 30 days shall have expired after such filing without written notice from the commissioner of disapproval thereof.~~

(2) The commissioner shall disapprove the forms for such insurance if he finds that they are unjust, unfair, inequitable, misleading, or deceptive or that the rates are by reasonable assumptions excessive in relation to the benefits provided.

(3) In determining whether such rates by reasonable assumptions are excessive in relation to the benefits provided, the commissioner shall give due consideration to past and prospective claim experience, within and outside this state, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this state, and to all other relevant factors within and outside this state, including any

1 differing operating methods of the insurers joining in the
2 issue of the policy.

3 (4) In exercising the powers conferred upon him by
4 this part, the commissioner shall not be bound by any other
5 requirement of this code with respect to standard provisions
6 to be included in disability policies or forms.

7 (5) The commissioner may, after hearing upon written
8 notice, withdraw an approval previously given, upon such
9 grounds as in his opinion would authorize disapproval upon
10 original submission thereof. Any such withdrawal of
11 approval after hearing shall be by notice in writing
12 specifying the ground thereof and shall be effective at the
13 expiration of such period, not less than 90 days after the
14 giving of notice of withdrawal, as the commissioner shall in
15 such notice prescribe."

16 Section 25. Section 33-24-102, MCA, is amended to
17 read:

18 "33-24-102. Insuring improvements -- insurance equal
19 to true value. Whenever any policy of insurance shall be
20 written to insure any improvements upon real property in
21 this state against loss by ~~fire, tornado, or lightning~~ or
22 ~~damage~~ and the property insured ~~shall be wholly destroyed is~~
23 ~~considered to be a total loss~~, without criminal fault on the
24 part of the insured or his assigns, the amount of insurance
25 written in such policy shall be taken conclusively to be the

1 true value of the property insured and the true amount of
2 loss and measure of damages. The payment of money as a
3 premium for insurance shall be prima facie evidence that the
4 party paying such insurance premium is the owner of the
5 property insured; provided, that any insurance company may
6 set up fraud in obtaining the policy as a defense to a suit
7 thereon."

8 Section 26. Section 33-24-103, MCA, is amended to
9 read:

10 "33-24-103. Specific valuation -- loss equal to
11 insured value ~~---alternative---methods~~. (1) This section
12 applies to policies, except motor vehicle insurance
13 policies, which insure specific listed items of personal
14 property against any loss or damage.

15 (2) If the insurer places specific valuations upon
16 particular items of covered property and bases the premium
17 charge on these valuations, then he shall compute any total
18 loss or total damage to the property, when covered, at the
19 stated valuation with no deductions or offsets.

20 ~~{3}--An insurer who wishes to vary this requirement and~~
21 ~~use a different method for computation of loss, the policy~~
22 ~~and any application for such a policy shall set forth in~~
23 ~~type of prominent size the actual method of loss computation~~
24 ~~to be employed."~~

25 Section 27. Section 33-25-102, MCA, is amended to

1 read:

2 "33-25-102. Rates filed with commissioner. (1) Every
3 title insurer shall file with the commissioner a complete
4 schedule of risk rates to be charged by it for title
5 insurance as to property located in this state. The rates
6 shall be all-inclusive of the total charge for such
7 insurance as specified in the policy and shall be
8 accompanied by supporting data.

9 (2) No such rate shall be excessive, inadequate, or
10 unreasonably discriminatory.

11 (3) No title insurer shall charge any rate for such
12 insurance other than the applicable rate previously filed by
13 it with the commissioner.

14 ~~(4) Title insurers lawfully transacting business in~~
15 ~~this state on January 1, 1961, shall comply with the~~
16 ~~provisions of this section within 90 days thereafter.~~

17 Section 28. Section 33-30-1001, MCA, is amended to
18 read:

19 "33-30-1001. Newborn infants covered by insurance by
20 health service corporation. No disability insurance plan or
21 group disability insurance plan issued by a health service
22 corporation ~~which in addition to covering the persons~~
23 ~~insured also covers members of such a person's family~~ may
24 be issued or amended in this state if it contains any
25 disclaimer, waiver, or other limitation of coverage relative

1 to the accident and sickness coverage or insurability of
2 newborn infants of the persons insured from and after the
3 moment of birth. Each such policy shall contain a provision
4 granting immediate accident and sickness coverage, from and
5 after the moment of birth, to each newborn infant of any
6 insured person. If payment of a specific premium or
7 subscription fee is required to provide coverage for a
8 child, the policy or contract may require that notification
9 of birth of a newly born child and payment of the required
10 premium or fees must be furnished to the insurer or
11 nonprofit service or indemnity corporation within 31 days
12 after the date of birth in order to have the coverage
13 continue beyond such 31-day period.

14 Section 29. Repealer. Sections 33-3-501 and 33-7-527
15 through 33-7-530, MCA, are repealed.

-End-

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OPPONENTS: None

QUESTIONS: None

Rep. Andersen closed.

SENATE BILL 334 -

SENATOR MIKE ANDERSEN, District 40, Gallatin County, sponsored SB 334 at the request of the State Insurance Department. It updates laws relating to insurance.

JO DRISCOLL, Chief Deputy Insurance Commissioner, said there are a lot of changes in this bill which they feel are all necessary. Under the old law the department had to act on all filings within 30 days. All forms must be filed with their office for prior approval and the department has 30 days to approve or disapprove and 30 days is just inadequate, so they are asking for 60 days. Some companies deem approval if they have not heard from the department for 30 days, but she thinks the companies should write the department asking if they have received the form before using it.

They are asking for six months time in which to review reciprocal forms that apply to Montana laws as well as to those of other states. It is impossible for their hard working crew to get it done in 30 days.

The fee for appointment of agents and renewal of agents is being raised from \$5 to \$10. There are reciprocal laws in the state which say that the fees charged by other states are greater than ours, those fees will apply. There is a lot of administrative work to keep track of all the other 50 states.

They need some more staffing to go out and talk to senior citizens. Fees will bring in approximately \$120,000 additional money when raised. It seems the appropriations committee has not given the department their total request. The total revenue, however, should cover the cost of a couple more people which are desperately needed. The \$10 fee will not be refundable because it is felt the department has earned it and it costs too much to refund.

Domestic mutual companies are now allowed to write insurance on homes up to \$50,000. Cash valuations of policies are amended. They are adopting some provisions that were approved by the National Insurance Association of Commissioners that would allow an insurer to cancel a policy because of a geographic area. They had an insurer who started reducing the insurance on all the homes in Anaconda because of its economic depression. An insurer may not refuse to insure solely because of others physical handicap - she feels that is unfair discrimination.

The amount of time after which a policy cannot be cancelled because of fraudulent statements by the insured is reduced to two years from three.

The law relating to insurance on a newborn infant has been unclear and was amended. Maternity benefits must apply to single persons as well as married. If a husband is not covered under his wife's policy because

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he is a veteran, she should be covered for maternity and newborn infants benefits.

The valued property law provides that if you insure your home for \$50,000 and the home is a total loss, the insurer isn't going to argue with you that it wasn't worth \$50,000, but if it isn't burned completely down, there is room for argument. It is required that the insurer go out and determine the value of that home before insuring it so any loss will have a value. Whatever that risk is, you cover the total amount of insurance.

Eliminating alternative values applies to personal property. The department feels the same way about personal property as about real property insurance. If you insure items destroyed the company should have to pay for the total loss.

The department is requesting that title insurance rates shall be all-inclusive. The present law requires that an insurer must file risk rates that go to the insurance company which is a small portion of the total charge for insurance. They are asking that total charges be filed so that title insurance companies will have to pay premium tax on the total amount of insurance. This tax is 2-3/4%.

OPPONENTS:

PAT MELBY, Alliance of American Insurers, Helena, said the Insurance Department is very courteous, professional and competent, and is very, very overworked. He opposes the amendment on page 2 dealing with the filing of approval of forms for contracts. Lines 15-19 changes the procedure under which an insurer submits to the office allowing 30 days to review the form and notify the insurance company that they approve to give the Commissioner's office 60 days to review. He feels under present law the insurance department by asking for extensions has 40 days time and that if the company had not heard from the department by then, it should automatically be approved. They support the current provision. The department should have the proper staffing so it doesn't delay the activity of the industry.

QUESTIONS -

Rep. Fabrega asked Mr. Melby if he wanted the 30-day review period? Mr. Melby said they would prefer having the demurrer provision kept which has the automatic provision if no action is taken within a 30-day extension, if the office needs it, that the form is automatically approved. He would like to see the department properly staffed to prevent foreseeable log jams. Jo Driscoll said they just can't handle the load the present Legislature has imposed on them requiring refiling and reapproval of certain forms.

Rep. Andreason asked Jo Driscoll about infant coverage and she explained that an infant would not be covered at birth unless a person had dependent * coverage. He opposes the amendments.

Senator Andersen closed.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

March 11, 1981

SUMMARY OF BILLS TO BE HEARD TODAY

SENATE BILL 314 -

Introduced by Senator Anderson by request of the Insurance Department, is called the "Individual Family Disability Insurance Continuity of Coverage Act" and allows family members to continue individual family disability insurance coverage upon death of the named insured or divorce, separation, or annulment of marriage. Continuance of coverage, at the option of the insurer may be by continuation of the original policy or by a converted policy. The bill requires the person desiring the continuation or conversion to notify the carrier and pay the applicable premium within 31 days following the date that coverage would otherwise terminate. Overinsurance is not permitted, and the bill would be applicable to policies or contracts issued 120 days after the effective date of the act and does not apply to disability income policies, accidental death or dismemberment policies, or single-term, non-renewable policies.

SENATE BILL 334 -

Introduced by Senator Anderson, by request of the Insurance Department, is a general revision and clarification of the insurance law of Montana. Among other provisions, the bill:

Changes from 30 to 60 days the requirement for advance filing with the department before use of a form.

Allows the commissioner to suspend or revoke the certificate of authority of an insurer who has reinsured all of his risks.

Raises from \$400,000 to \$1,000,000 the trust fund required to be maintained by an alien insurer (one formed under the laws of a country other than the U.S.) who offers surplus lines (certain coverages that cannot be obtained from authorized insurers).

Raises fees for agents' licenses from \$5 to \$10 for appointment, from \$5 to \$10 for annual renewal, establishes a new fee of \$10 for amendment of license or issuance of master license.

Requires that a newly-organized domestic mutual insurer must have surplus equal to paid-in capital stock required of a domestic stock company and raises the bond required on formation of a mutual company from \$15,000 to \$50,000.

Changes from 3 to 2 years the time limit on provisions of defenses on policy misstatements in disability contracts.

Requires notification to the company and payment of premium within 31 days of birth to qualify a new-born for coverage under the parent's disability policy.

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 314	To allow family members the right to continue individual family disability ins. coverage upon the death of the named insured or the divorce, separation, or annulment of marriage of the spouse from the named insured; & to establish conditions & requirements of continued coverage.	3/3	Mike Anderson	3/11	BE CONCURRED IN	3/11
SB 334	To generally revise & clarify the insurance laws of MT; amend..... repealing.....	3/3	Mike Anderson	3/11	BE CONCURRED IN	3/11
SB 335	To adopt a new definition of marine, inland marine, & transportation ins.; describing the kinds of risks & coverages that may be insured by marine, inland marine, or transportation ins. policies; amend...; & repealing 33-1-209.	3/3	Hazelbaker	3/11	BE CONCURRED IN	3/11
SB 370	To regulate sale of hamburger or ground beef in the various forms in which it is sold at retail; amend....	3/3	Mike Anderson	3/11	BE CONCURRED IN	3/11
SB 392	To terminate board of podiatry examiners & transfer to Bd. of Medical Examiners; removing statutory passing grade on examination;					

STANDING COMMITTEE REPORT

February 19, 1901

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 334

Respectfully report as follows: That SENATE Bill No. 334

He

DO PASS

Senator Mazurek moved to amend line 22, page 2, by striking
", as part of the costs,". This motion passed unanimously.

Senator S. Brown moved that the bill DO PASS AS AMENDED,
and his motion carried over Senator Crippen's opposition.

DISPOSITION OF SENATE BILL 329:

Senator Mazurek moved that the bill DO NOT PASS, and his
motion carried over Senator Halligan's opposition.

DISPOSITION OF SENATE BILL 334:

Senator Olson moved that the bill DO PASS, and his motion
carried over Senator Berg's opposition.



Senator Hager presented the bill, and said that its purpose is as shown in the above description. To demonstrate the need for this bill, he presented an illegible copy of a document which had been presented for recording (marked Exhibit F and attached to these minutes), and letters from two clerk and recorders (marked Exhibits D and E, and attached to these minutes).

Other clerk and recorders supporting the bill and presenting illegible documents were Joanne Peres, Choteau, Helen Kovich, Lewis & Clark, Ethel Harding, Lake; and Doris Shepherd, of the Montana Association of Counties, who presented a letter in support of the bill (marked Exhibit G and attached to these minutes).

CONSIDERATION OF SENATE BILL 334:

GENERALLY REVISING MONTANA INSURANCE LAW.

Senator Olson took over the chair for Vice Chairman O'Hara, who had to leave at this point, and invited Josephine Driscoll to present the bill for Senator Anderson, who had left to attend another committee meeting.

Mrs. Driscoll explained that the bill had been submitted by the State Insurance Department, and read through it for the benefit of the committee. She said that many different factions of the insurance business had contributed to the input.

Richard Hall, an independent insurance agent from Billings, spoke in support.

Senator Berg expressed his concern over the large number of insurance bills that are appearing before this legislature. Mrs. Driscoll replied that some of the laws on the books date back to 1949, and that when her department feels that there are abuses or lack of clarification, she feels it is their responsibility to bring those matters up.



Senator Anderson
Chairman, Judiciary Committee